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REMARKS

Claims 1-7, 9-10, 13-35, 37-38 and 40-59 are pending, of which claims 1-4 and claims 44-59 have been withdrawn from consideration. Claims 8, 11, 12 and 36-39 have been cancelled without prejudice or disclaimer.

The claims have been amended in view of the Office Action and to better define what the Applicants consider their invention, as fully supported by an enabling disclosure. In particular, claim 5 has been amended to claim a battery-grade zinc powder comprising zinc metal or zinc alloy particles, the zinc metal or zinc alloy particles having an aspect ratio of between 8 and 22 and a particle size distribution with a log normal slope of less than 2. Support for this amendment can be found in claims 5 and 8 as filed and in the text at TABLE 7.

Reconsideration in view of the following remarks and entry of the foregoing amendments are respectfully requested

REJECTIONS UNDER 35 U.S.C. § 112 FIRST PARAGRAPH

The Examiner has rejected claims 8 and 11 under 35 U.S.C. § 112, first paragraph. Applicant submits that the claims as amended overcome this objection. In particular, the limitations of cancelled claim 8 have been incorporated in claim 5 and claim 11 has been amended.

In view of the above and foregoing, it is respectfully requested that the Examiner withdraw his rejection under 35 U.S.C. § 112, first paragraph.

REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

The Examiner has rejected claims 7, 8, 10, 11, 13, 22, 23, 26, 28, 29, 31, 33 and 35 under 35 U.S.C. § 112, second paragraph. Claims 8 and 11 have been cancelled and claims 7, 10, 13, 22, 23, 26, 28, 29, 31, 33 and 35 amended. Applicant submits that the claims as amended overcome this objection.

The Examiner has rejected claim 15 under 35 U.S.C. § 112, second paragraph on the grounds that the use than "less than about" is not defined by the claim. Applicant submits that claim 15 as amended overcomes this objection.

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The Examiner has rejected claim 5 under 35 U.S.C. § 112, second paragraph on the grounds that "the not classified material" has no antecedent basis. Applicant has removed the reference to "the not classified material" and submits that claim 5 as amended overcomes this objection.

In view of the above and foregoing, it is respectfully requested that the Examiner withdraw his rejection of the claims under 35 U.S.C. § 112, second paragraph.

REJECTION UNDER 35 U.S.C. § 102

Claim 5 has been rejected as being anticipated by US Patent No. 6,344,295 by Huot and therefore not in conformance with 35 U.S.C. § 102. Applicants respectfully traverse the rejection as follows. Huot discloses mercury and lead free rechargeable batteries comprising anodes fabricated from a zinc-bismuth alloy powder having a log normal distribution of about 1.6. No discussion is made of the shape of the particles used, but as the powders are fabricated using an air atomisation process (see column 5, lines 48 through 55) they will necessarily be generally spherical or lightly acicular (aspect ratio of 2 or thereabouts) in shape. In light of the above, it is submitted that Huot does not disclose a battery-grade zinc powder comprising zinc metal or zinc alloy particles having an aspect ratio of between 8 and 22 and therefore that Huot does not anticipate Claim 5 of the present invention.

REJECTION UNDER 35 U.S.C. § 103

The Examiner has rejected the remaining claims on the grounds that they are obvious over Huot in view of a diverse number of prior art references. Applicant submits that none of the references either taken alone or in combination disclose or teach a battery-grade zinc powder comprising zinc metal or zinc alloy particles having an aspect ratio of between 8 and 22. As a result, it is respectfully submitted that the remaining claims are allowable claims.

The rejections of the original claims are believed to have been overcome by the present remarks and the introduction of new claims. From the foregoing, further and favourable action in the form of a Notice of Allowance is believed to be next in order, and such an action is

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earnestly solicited.

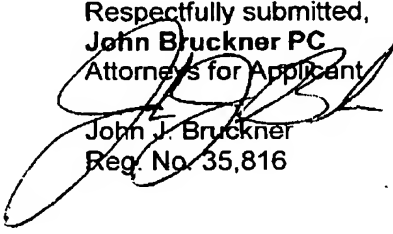
In accordance with 37 CFR 1.136(a) pertaining to patent application processing fees, Applicant requests an extension of time from November 30, 2006 to December 30, 2006 in which to respond to the Office Action dated August 30, 2006. A notification of extension of time is filed herewith.

The Examiner is invited to telephone the undersigned (at direct line 512-394-0118) for prompt action in the event issue(s) remain that prevent the allowance of all pending claims.

The Director of the U.S. Patent and Trademark Office is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 50-3204 of John Bruckner PC.

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